

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1574 OF 2003
IN
SUIT NO.3924 OF 2000

Mrs.Indumati Ramu Patil ...Plaintiff
Vs.
Smt. Suchita S. Patil & Ors. ...Defendants

None for Plaintiff
Mr. P.G. Lad for Defendants

CORAM: SMT.R.S.DALVI, J.
DATED: 4TH AUGUST, 2005

P.C.

1. This Notice of Motion has been taken out since May, 2003. The Plaintiff has remained absent, even on earlier two dates of hearing. The Plaintiff seeks relief of injunction in respect of the flat left by the deceased son in which the Defendant, the wife of the deceased is residing as also for deposit of the amounts aggregating to the Plaintiff's 50% share in various other movable properties, namely LIC Policy, Bank Account, Securities, employment dues, death claim settlement as well as for declaration of certain pension which would have been paid to the Plaintiff had the Defendant not been herself earning.

2. The Plaintiff claims similar reliefs in the suit upon the estate as was known to her at the time of the suit. The plaintiff valued certain reliefs and

undertook to pay further Court fees upon further valuation being made.

3. Pending the suit the Plaintiff has amended the plaint and set out further estate of her deceased son. such further estate has been specifically shown by way of liquidated amounts. The Plaintiff's 1/2 share in that estate has also been quantified. However, further Court fees is not paid upon such additional estate for which the Plaintiff claims reliefs in this Notice of Motion by way of mandatory deposits.

4. Prayer (a) relates to the residential flat of the deceased in which the Defendant resides and injunction restraining the Defendant from transferring or creating third party rights therein as already been granted.

5. Various deposits which the Plaintiff claims under reliefs (b),(c) and (d) can be granted only after advalorem Court fee is paid on the amounts of the estate valued in that regard.

6. The Plaintiff's claim for declaration of pension before the Regional Provident Fund Commissioner under the specific provident fund scheme under prayer (e) of the Notice of Motion cannot be allowed by this Court. The Plaintiff is required to make an application in that behalf before the relevant

authority.

7. Since the Plaintiff has not paid Court fees upon the suit as valued by herself, Mr. Lad upon the Court's request has undertaken the exercise of showing further Court fees which are required to be paid. The total additional Court fees payable by the Plaintiff aggregates to Rs.13,405/-. Unless the Plaintiff pays the relevant Court fees the Plaint itself is liable to be rejected. Until the additional Court fees is paid no further relief also can be granted to the Plaintiff. Hence, the following order:-

O R D E R

. There shall be no order on this Notice of Motion. No order as to costs.

. The Plaintiff shall pay additional Court fees of Rs.13,405/- within two weeks from today upon the valuation made by herself under the various heads of estate of her deceased son, failing which the Plaint shall be rejected.

(SMT.R.S.DALVI, J.)

